

Minutes of the Windham Town Council Regular Meeting

Windham Town Hall Bellingham Auditorium, 2nd Floor
Tuesday, June 7, 2016 - 7:00 P.M.



1. Call to Order.

Mayor Eldridge called the Windham Town Council Regular Meeting to order at 7:00 P.M.

Town Council members present: Mayor Ernest S. Eldridge, Charles Krich, Tony Fantoli, Nectalis Martinez, Mike Lessard (arrived at 7:20 P.M.), Lorraine McDevitt, James Flores, Lynne Ide and Dawn Niles

Tom DeVivo and Dennis O'Brien were excused

Town Manager Neal Beets was also in attendance.

2. Pledge of Allegiance.

Mayor Eldridge led all in the Pledge of Allegiance.

3. Citizens and Delegations: Public Comment.

Jean Chaine, Windham resident, read a statement for the record and referred to Section IX-2 of the Windham Town Charter. (See Attachment A).

4. Town Council Comment.

James Flores urged the Council to vote on each person individually when voting on the Charter Revision Commission members rather than voting them as a group.

Lynn Ide reminded the Willimantic Taxing District members that there is a Special Meeting at 6:30 P.M. tomorrow in the 1st floor Conference Room in Town Hall to set a mill rate for the Willimantic Taxing District.

Mayor Eldridge noted there will be a Special Meeting of the Board of Finance tonight if the budget passes.

5. Adoption of Town Council Minutes.

a. Regular Meeting of May 17, 2016.

McDevitt MOVED, Fantoli seconded, to approve the minutes of the Windham Town Council Regular Meeting of May 17, 2016. All were in favor except Eldridge who abstained. MOTION PASSED.

MOTION: McDevitt MOVED, Fantoli seconded, to move Item #15a up on the agenda to follow Item #5a. All were in favor. MOTION PASSED UNANIMOUSLY.

15. New Business.

- a. Discuss and possibly approve an application from Windham Arts for an event serving beer at Jillson Square on Friday, August 5, 2016, (rain date, August 6), subject to compliance with all applicable state and Town requirements.**

Krich MOVED, Ide seconded, to approve an application from Windham Arts for an event serving beer at Jillson Square on Friday, August 5, 2016, (rain date, August 6), subject to compliance with all applicable state and Town requirements. All were in favor. MOTION PASSED UNANIMOUSLY.

6. Resignations.

None

7. Appointments, Reappointments, as recommended by the Nominating Committee.

- a. Appoint five of the following applicants for the Charter Revision Commission, with only one public official. (NOTE: This list reflects the order in which the applications were received. The Nominating Committee will report its five recommendations at the Council Meeting.)**

- i. Charles L. Pennewell**
- ii. John R. McCommas (public official, Economic Development Commission)**
- iii. Benjamin Van Rheen**
- iv. Joshua Eves (public official, Ethics Commission)**
- v. Susan Collins**
- vi. Harry R. Carboni**
- vii. Jean de Smet (public official, Energy Commission)**
- viii. Christel K. Donahue**
- ix. Daniel Lein**

ADDED
ADDED

Fantoli MOVED, McDevitt seconded, to nominate Charles L. Pennewill, to Charter Revision Commission as recommended by the Windham Town Council Nominating Committee. Eldridge, McDevitt and Fantoli were in favor and all others opposed. MOTION FAILED.

Fantoli MOVED, Eldridge seconded, to nominate Benjamin Van Rheen to Charter Revision Commission as recommended by the Windham Town Council Nominating Committee. Eldridge, McDevitt and Fantoli were in favor and all others opposed. MOTION FAILED.

Niles MOVED, Flores seconded, to nominate Joshua Eves to the Charter Revision Commission. All were in favor. MOTION PASSED UNANIMOUSLY.

Krich MOVED, Flores seconded, to nominate Harry Carboni to the Charter Revision Commission. All were in favor. MOTION PASSED UNANIMOUSLY.

Krich MOVED, McDevitt seconded, to nominate Christel Donahue to the Charter Revision Commission. All were in favor. MOTION PASSED UNANIMOUSLY.

Niles MOVED, Flores seconded, to nominate Daniel Lein to the Charter Revision Commission. All were in favor except Fantoli who opposed. MOTION PASSED.

Flores MOVED, Krich seconded, to postpone the appointment of the fifth member of the Charter Revision Commission. All were in favor except Fantoli who opposed. MOTION PASSED.

b. Reappoint the following persons as the Windham representatives to the North Central District Health Department:

i. Catherine Gregory, with a term to end April 15, 2019.

ii. Matthew Maynard, with a term to end April 15, 2019.

Niles MOVED, Lessard seconded, to reappoint Catherine Gregory and Matthew Maynard as the Windham representatives to the North Central District Health Department with a term ending date of April 15, 2019. All were in favor. MOTION PASSED UNANIMOUSLY.

c. Reappoint the following persons to the Inland Wetlands and Watercourse Commission:

i. Susan Johnson, with a term to end on July 1, 2020.

ii. Katherine Eves, with a term to end on July 1, 2020.

Ide MOVED, Lessard seconded, to reappoint Susan Johnson and Katherine Eves to the Inland Wetlands and Watercourse Commission with a term ending date of July 1, 2020. All were in favor. MOTION PASSED UNANIMOUSLY.

d. Reappoint John Schwenk to the Willimantic Housing Authority, with a term to end on July 31, 2021.

Ide MOVED, Lessard seconded, to reappoint John Schwenk to the Willimantic Housing Authority with a term ending date of July 31, 2021.

8. Presentations & Special Reports.

None

9. Mayor's Report.

Mayor Eldridge reported he had attended both the Victorian Home Tours and the dedication celebration for Cora Moore. He noted both events were fabulous. He also thanked Councilmember Flores for bringing Cora Moore's name forward to honor her.

Councilmember Flores thanked Mayor Eldridge, Recreation Director Tara Calixto and the Recreation Department for their help and support with the dedication celebration. He also thanked the Councilmember's and all others who attended and supported the event.

10. Town Manager's Report.

Town Manager Beets made reference to Item #15b and reported due to a family event, Finance Director Christian Johnson was not able to attend tonight's meeting. He noted a presentation by Finance Director Johnson will take place next Tuesday at the Administration & Finance Committee meeting to discuss the transfer of Town of Windham pension funds from Great West/Empower to Morgan Stanley.

Niles MOVED, Lessard seconded, to move Item #15b up on the agenda to follow Item #10. All were in favor. MOTION PASSED UNANIMOUSLY.

Niles MOVED, Flores seconded, to send Item #15b to the Administration & Finance Committee for review at their June 14th meeting. All were in favor. MOTION PASSED UNANIMOUSLY.

11. Discussion and Review of Communications to Council.

None

12. Discussion and Review of Agendas, Minutes, Reports of Town Boards, Committees, and Commissions.

None

13. Resolutions and Ordinances.

None

14. Old Business.

- a. **Discuss and possibly act on a motion to convene an executive session with the Town Attorney to discuss pending litigation with Loch View, LLC, with the Code Compliance Director, Building Official, Town Assessor, and Town Manager in attendance.**

McDevitt MOVED, Niles seconded, to convene an executive session at 7:35 P.M. with the Town Attorney to discuss pending litigation with Loch View, LLC, with the Code Compliance Director, Building Official, Town Assessor, and Town Manager in attendance. All were in favor. MOTION PASSED UNANIMOUSLY.

Ide MOVED, Niles seconded, to come out of executive session at 7:55 P.M. All were in favor. MOTION PASSED UNANIMOUSLY.

- b. **Discuss and possibly act on matters relating to the executive session.**

No Action Taken.

15. New Business.

- a. **Discuss and possibly approve an application from Windham Arts for an event serving beer at Jillson Square on Friday, August 5, 2016, (rain date, August 6), subject to compliance with all applicable state and Town requirements.**

Moved up on the agenda to follow Item #5a

- b. **Discuss and possibly approve the transfer of Town of Windham pension funds from Great West/Empower to Morgan Stanley, as recommended by the Finance Director.**

Sent to the Administration & Finance Committee for review

16. Future Agenda Items

None

17. Citizens and Delegations: Public Comment.

Mike Lessard apologized and explained why he was late for the meeting. He also informed the Council that he had put his house on the market and there is a possibility he may move out of Windham although he would like to stay in Town.

Lorraine McDevitt reported on the Arts Council event and noted the art exhibits will be open for viewing every weekend during the month of June. She also noted her 8 year old grandson had an abstract painting in the exhibit.

James Flores spoke about property on Route 14 and its intended use for recreation. He suggested a walking trail similar to the Lebanon Green be developed.

18. Adjournment

McDevitt MOVED, Lessard seconded, to adjourn the Windham Town Council Regular Meeting at 8:00 P.M. All were in favor. MOTION PASSED UNANIMOUSLY.

Submitted By:

Barbara J. McKinney
Clerk of the Town Council

Attachment A

Recently, a First Taxing District meeting discussed a proposal to fund with taxes, the purchase of real estate for the expansion of one local firehouse. It would accommodate the future purchase of additional high value equipment. One of the directors asked "Who will be owner"? The response was that the "Taxing District cannot own property". With no additional comment it implied that the Fire Department as a private contractor would take title. Examining the Town Charter for clarification on that response, chapter IX-2 Taxing District Responsibilities, states in part: "Any property acquired for use by the Willimantic Taxing District shall be acquired in the name of the Town, and any such property which is paid for by a taxing district shall be made available for the exclusive use of such taxing district and the proceeds of any sale or other disposition of such property shall be applied by the Town to the cost of other property which shall be made available for the exclusive use of such taxing district."

Although references in this chapter to "a taxing district" or "such taxing district" seems to include both taxing districts for some of the responsibilities, definitive First Taxing District ownership issues are unclear or absent.

The lack of such a provision seems to be ceding to private contractors, taxpayers funded land, buildings and high value equipment without taxpayer ownership. Future "sale or other disposition" of these same items does not require private contractors to apply any value received of those assets to other property made available for the exclusive use of the First Taxing District, required by the Willimantic Taxing District.

Additional language in chapter IX-2 clearly defining First Taxing District responsibilities should reflect the unique nature of the district's First Responder service providers. They are volunteer personnel belonging to 3 separate private contractors providing adequate service to the district. The Charter provides for the district to tax itself for that service. Beyond reimbursement for actual costs to provide 24/7 first responder services, taxpayers should own the land, buildings and high value rolling stock purchased with taxpayer funds. Leasing them to the contractors for a nominal annual amount would not alter performance of day-to-day services. Clarifying the First Taxing District responsibilities would in my view, eliminate the unintended diversion of significant high value taxpayer-funded purchases to private contractor assets.

Jean Chaine

§ IX-2

Taxing district responsibilities.

Each taxing district shall be responsible for providing or arranging for the provision of fire and police protection plus supplementary services it chooses to provide within the boundaries of its taxing district. Each taxing district shall be responsible for levying taxes on the taxable property within the boundaries of its taxing district to finance the cost of services provided by the taxing district. The authority of any police or fire department or its chiefs or officers shall not extend beyond the boundaries of their respective taxing districts, except as otherwise required by mutual aid agreement or State Statutes dealing with "hot pursuit," or in the case of any police department, if and when its services are retained by one or the other of the taxing districts by way of a written agreement duly approved by the proper authorities of each taxing district.

Each taxing district shall be responsible for paying all costs for the services provided by the taxing district, including but not limited to, salaries, wages, payroll taxes, fringe benefits, past and future pension costs, liability insurance, hazard insurance on any property made available for use by the taxing district and any other expenses directly or indirectly related to the provisions of such services. Each taxing district shall be responsible for paying the costs of operating, maintaining and repairing any real or tangible personal property which is made available for use by a taxing district. In the event the Town of Windham provides any additional or replacement real or tangible personal property for use by a taxing district, the taxing district shall pay the cost of acquiring or financing the costs of acquiring such property and shall, if necessary, include in its tax levy a sufficient amount to pay such costs. Such requirement shall not be a limitation on the power of the Town to issue its bonds or notes secured by the full faith and credit of the Town to finance the costs of acquiring such property. **Any property acquired for use by the Willimantic Taxing District shall be acquired in the name of the Town, and any such property which is paid for by a taxing district shall be made available for the exclusive use of such taxing district and the proceeds of any sale or other disposition of such property shall be applied by the Town to the cost of other property which shall be made available for the exclusive use of such taxing district.**

A taxing district may release any such property to the Town for any municipal use upon approval of the voters of the taxing district.

The members of the Town Council elected from the Willimantic Voting

District shall constitute the Board of Directors of the Willimantic Taxing District. Said Board of Directors shall adopt taxing district bylaws, elect from among themselves a president, vice president, clerk and treasurer, and shall be responsible for overseeing the provision of services in their taxing district including but not limited to, the approval of contracts, the preparation of the proposed annual budgets, the fixing of salaries (to the extent not covered by union contracts), and fixing of pensions with the aid of the Willimantic Police and Fire Pension Commission. The Town Manager shall be an ex officio member without vote on the governing body of each taxing district created by this charter.

The Town Manager shall be the Chief Executive Officer of the Willimantic Taxing District, but if the District Board of Directors determines that there is a particular issue upon which there is a conflict of interest between the Town Manager's responsibilities to the Town of Windham and to the Taxing District, the President of said Board of Directors will be empowered to act for the district in place of the Town Manager on that particular issue alone.

Proposed IX2 language addition in italic:

Any property acquired for use by the Willimantic Taxing District shall be acquired in the name of the Town, and any such property which is paid for by a taxing district shall be made available for the exclusive use of such taxing district and the proceeds of any sale or other disposition of such property shall be applied by the Town to the cost of other property which shall be made available for the exclusive use of such taxing district.

When acquiring real or tangible property requiring ownership documentation, and purchased with taxpayer funds for exclusive use within the First Taxing District, that property shall be acquired in the name of the Town of Windham. All proceeds of any sale or other disposition of such property shall be available to the First Taxing District and applied to other property for the exclusive use of said district.

A taxing district may release any such property to the Town for any municipal use upon approval of the voters of the taxing district.